

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

THOMAS E. PEREZ, Secretary of
Labor, United States Department of
Labor,

Plaintiff,

v.

RAJIV SAUSON, and individual and
SUNSHINE MOTEL INN, LLC, a
Washington limited liability company,

Defendants.

NO: 1:15-CV-3197-RMP

ORDER DENYING AS MOOT
MOTION TO DISMISS

BEFORE THE COURT is Defendants' Motion to Dismiss Plaintiff's
Complaint for Violations of the Fair Labor Standards Act, **ECF No. 7**. The Court
has reviewed the motion, the memorandum in response (ECF No. 9), and is fully
informed.

On January 19, 2016, Defendants moved to dismiss Plaintiff's Complaint,
ECF No. 1. However, on January 29, 2016, Plaintiffs filed a First Amended
Complaint, ECF No. 8. In the Ninth Circuit,

It is well-established in our circuit that an "amended complaint
supersedes the original, the latter being treated thereafter as non-

existent.” In order words, “the original pleading no longer performs any function” Consequently, the Plaintiff’s Second Amended Complaint supersedes the First Amended Complaint, and the First Amended Complaint ceased to exist. Because the Defendants’ motion to dismiss targeted the Plaintiff’s First Amended Complaint, which was no longer in effect, we conclude that the motion to dismiss should have been deemed moot before the district court granted it.

Ramirez v. Cnty. Of San Bernardino, 806 F.3d 1102, 1108 (9th Cir. 2015) (internal citations omitted). Here, as Defendants’ motion to dismiss targeted Plaintiff’s original Complaint, the Court concludes that the motion has been mooted by Plaintiff’s First Amended Complaint.

Accordingly, **IT IS HEREBY ORDERED** that Defendants' Motion to Dismiss Plaintiff's Complaint for Violations of the Fair Labor Standards Act, **ECF No. 7**, is **DENIED AS MOOT**.

The District Court Clerk is directed to enter this Order and provide copies to counsel.

DATED this 8th day of March 2016.

s/ Rosanna Malouf Peterson
 ROSANNA MALOUF PETERSON
 United States District Judge